



C.S.No.368 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2024

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THE HON'BLE MR. JUSTICE P.VELMURUGAN

C.S.No.368 of 2019

and

A.No.4035 of 2019

IL & FS Tamil Nadu Power Company Limited,
4th Floor, KPR Tower,
Old No.21, New No.2,
1st Street, Subba Roa Avenue,
College Road, Chennai – 600 006.

... Plaintiff

Vs.

KSK Mahanadi Power Company Limited,
8-2-293/82/A/431/A, Road No.22,
Jubilee Hills, Hyderabad 500 033.

... Defendant

PRAYER: The Complaint filed under Order IV Rule 1 of Original Side Rules of this Court read with Order VII Rule 1 of C.P.C., and Section 7 of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Court Act No.4 of 2016 and numbered as C.S. No.368 of 2019, praying for judgment and decree against the defendant, as follows:



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(a) Directing the defendant to pay the plaintiff, a sum of Rs.10,49,81,067/- (Rupees Ten Crores Forty Nine Lakhs, Eighty one thousand and Sixty seven only) together with interest at prevailing SBI PLR rates on Rs.6,15,90,029/- [Rupees Six Crores Fifteen Lakkhs Ninety Thousand and Twenty nine only] from the date of the plaint till the date of realisation.

(b) To direct the defendant to pay the costs of the suit to the plaintiff.

For Plaintiff : M/s.Menon

For Defendant : Set exparte on 04.04.2024.

J U D G M E N T

The plaintiff has filed the suit to direct the defendant to pay a sum of Rs.10,49,81,067/- (Rupees Ten Crores Forty Nine Lakhs, Eighty one thousand and Sixty seven only) together with interest at prevailing SBI PLR rates on Rs.6,15,90,029/- [Rupees Six Crores Fifteen Lakkhs Ninety Thousand and Twenty nine only] from the date of the plaint till the date of realisation, to the plaintiff.



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2. According to the plaintiff, the plaintiff is engaged in generation and supply of thermal power. The defendant had approached the plaintiff with an offer to supply electricity to TANGEDCO on behalf of the defendant, as an alternate source. The defendant issued letter of intent to the plaintiff for the supply of power to TANGEDCO on its behalf, as an alternate source for the period from 16th December 2016 to 31st March 2017. The plaintiff had also agreed to supply power to TANGEDCO on behalf of the defendant. The defendant had also agreed to pay the plaintiff for the power supply. The plaintiff supplied power to TANGEDGO on behalf of the defendant from 16th December 2016 to 31st March 2017. Though the defendant accepted the invoices raised by the plaintiff, the defendant had made part payments for the bill and he failed to settle the same in full by the due date. Hence the plaintiff raised a bill for later payment of surcharge. Despite demand notice made by the plaintiff and several reminders, the defendant failed to settle the outstanding amount. Hence the plaintiff has filed the suit.



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3. The sole defendant was set *ex parte* on 04.04.2024. Thereafter, the matter was posted for recording the *ex parte* evidence of the plaintiff.

4. In order to substantiate the case of the plaintiff, the Manager, who is the Legal and Authorised Signatory of the plaintiff's Company was examined as P.W.1. He has filed the proof affidavit for chief examination. On the side of the plaintiff, in course of the examination in chief of P.W.1, 23 documents listed at the foot of this judgment were exhibited as Exs.P1 to P23.

5. On the basis of the evidence recorded by the plaintiff in order to establish the claim and taking into account that no contra evidence was adduced, the plaintiff is entitled to the decree prayed for as against the defendant.

6. On a perusal of the plaint averments made in the plaint and also the evidence of oral and documentary evidence of the plaintiff namely



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P.W.1 and documents filed by the plaintiff Exs.P1 to P23, this Court finds that the plaintiff has proved its case. Hence the suit is decreed exparte, as prayed for with costs. Consequently, connected application is closed.

09.07.2024

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Plaintiff's witness: P.W.1 – Mr.Sarathi

Defendants' witness: Nil

Documents exhibited by the plaintiff:

SNo	Exhibit	Date	Description of the document
1	Ex.P1		Office copy of letter of intent dated 02.12.2016
2	Ex.P2		Office copy of the plaintiff's Email dated 08.12.2016
3	Ex.P3		Office copy of invoice dated 04.04.2017
4	Ex.P4		Office copy of letter dated 20.07.2017
5	Ex.P5		Office copy of Email dated 13.09.2017
6	Ex.P6		Office copy of Email dated 19.09.2017



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7	Ex.P7		Office copy of Email dated 05.10.2017
8	Ex.P8		Office copy of Email dated 19.10.2017
9	Ex.P9		Office copy of Email dated 23.10.2017
10	Ex.P10		Office copy of Email dated 24.10.2017
11	Ex.P11		Office copy of Email dated 24.10.2017
12	Ex.P12		Office copy of Email dated 27.11.2017
13	Ex.P13		Office copy of letter dated 06.12.2017
14	Ex.P14		Office copy of Email dated 07.02.2018
15	Ex.P15		Office copy of letter dated 15.06.2018
16	Ex.P16		Office copy of Email dated 06.07.2018
17	Ex.P17		Office copy of Email dated 31.07.2018
18	Ex.P18		Office copy of Email dated 08.11.2018
19	Ex.P19		Office copy of letter dated 03.12.2018
20	Ex.P20		Office copy of letter dated 20.03.2019
21	Ex.P21		Office copy of letter dated 08.04.2019
22	Ex.P22		Office copy of the demand notice dated 22.04.2019 with acknowledgement as per postal records
23	Ex.P23		Office copy of consolidated statement of accounts

Documents exhibited by the Defendant: Nil

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P.VELMURUGAN, J.

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